

-ACCOUNTANCY

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PROFESSIONAL NOTES

Deferment of Calling Up

The two Practising Accountants' Committees have now considered applications submitted by firms for the deferment of calling-up of partners and staffs. The recommendations of the Committees have been forwarded to the Ministry of Labour and National Service, who will shortly communicate to each firm the decision of the Ministry. To expedite the matter and to complete the consideration of the applications the Committees met frequently. A communication has already been sent by the respective bodies of accountants to firms who made application to advise them of the procedure adopted, and to indicate that applications for men below 25 years of age have not been considered, having regard to the paramount needs of the armed forces and to the fact that it was very unlikely deferment would be granted to such men. In the meantime the enlistment of qualified accountants and audit assistants with 10 years' experience between 25 and 30 years of age who become de-reserved has been suspended pending consideration of the applications for deferment. The deferment procedure does not apply to women, but the need for the retention in the profession of women already employed therein has been made the subject of representations to the Ministry of Labour and National Service.

The Fight against Inflation

The avoidance of the vicious spiral of inflation is one of the preoccupations of the Government, and, indeed, of the whole country. Unfortunately, inflationary symptoms have manifested themselves, and an explanation of the causes and an exhortation to the public have been issued by the Government in a White Paper on price stabilisation and industrial policy, couched in popular language. The crux of the matter is to be found in the difficult subjects of rationing policy and wage rates. Extensions in the one and the curtailment of increases in the other must be the main, if unpalatable, lines of anti-inflationary policy. The Government recognise there may be appropriate grounds for wage adjustments among low-paid grades of workers, but the stabilisation of prices during a shortage of supplies can only be effected by a reduction in the volume and activity of purchasing power and by ensuring the proper flow and distribution of the restricted volume of consumable goods. This is in the interests of all classes of the community, and not least of those who are dependent upon small fixed incomes. It may well be that a more definite policy in regard to all forms of remuneration and more drastic rationing will become inevitable, unless the public voluntarily restricts consumption, spends less and saves more.

Concentration of Production

When the concentration of production scheme was announced last March, the President of the Board of Trade invited the submission of voluntary schemes by the businesses concerned, with a time limit. The time limits have been passed but no very definite indications have yet been given of the methods which are to be followed in the compulsory concentration of tardy or recalcitrant firms. It seems probable that in some instances it has been found that concentration would not result in any effective release of labour or factory space for war purposes and that, in other cases, it has been difficult to compute the degree of concentration required. The scheme has, however, been successful in the cotton trade (where pressure has been exerted through the control of cotton supplies) and in a number of lesser industries, with a result that nearly 110,000 workers have been made available for war work. Meanwhile, the larger problem of the concentration of retail trade awaits solution. The concentration scheme, combined with the control of materials and civilian rationing, may have at least one desirable result from the view-point of the accountancy profession. In time, the degree of control established in these ways should be so absolute that the elaborate machinery of the Limitation Orders may prove redundant.

War Damage Risk Period

The War Damage (Extension of Risk Period) Bill which has been introduced into Parliament, and is not likely to meet with opposition, makes provision for extending protection in respect of damage to land during the second risk period from September 1, 1941, to August 31, 1942. The Bill makes no change in the existing position with regard to contributions payable under the original Act, which cover only the period to August 31, 1941. It is left to Parliament to determine at some future date what contributions shall be payable for this second risk period of 12 months.

War Damage Payments under Business Scheme

It will be remembered that under the War Damage Act, 1941, it was provided that the times at which payments by the Board of Trade under either the Business Scheme or the Private Chattels Scheme should be made were to be fixed by regulations to be made by the Treasury. The details of the arrangements regarding payment have now been distributed to policy-holders. Payment of claims under both schemes will be deferred until after the war (interest in the meantime accruing at $2\frac{1}{2}$ per cent. per annum) unless the Board are satisfied (a) that the replacement or repair of the goods destroyed or damaged is expedient in the public interest, or (b) that the claim as assessed does not exceed £100. It may be difficult for a professional accountant to prove that his furniture and effects come within the exception, and it must be presumed, therefore, that such claims will normally be deferred until after the war. If a claimant considers that it is in the public interest that early payment should be made so that he can repair or replace his plant, etc. (*e.g.*, because he has on hand Government contracts), it becomes necessary to make special application and fill in additional forms.

Government Control of Undertakings

A recent Order in Council places drastic powers of control in the hands of the Government Departments which are designated as "competent authorities" where a controller of an undertaking has been duly appointed. If it appears to the "competent authority" that any person concerned in the management is acting in an obstructive manner and it is expedient that all the shares in the company should be held on behalf of the Department, then the Department may remove the person or persons concerned and appoint others, and may direct that the shares vest in nominees of the Department, free from any charge or pledge. The price to be paid for the shares transferred is to be such a price as in the opinion of the Treasury is not less than the value of the shares as between a willing buyer and a willing seller on the date of transfer. The order fixing the price must be published and any person who had an interest in the shares may represent to the Treasury within three months that the price specified is less than the true value of the shares. In that case the value shall be determined by the arbitration of a qualified accountant nominated by the Lord Chief Justice of England.

No doubt this drastic order is justified by the urgent needs of production, but its provisions are likely to meet with criticism on general grounds and especially because it does not provide that the persons removed from the management are entitled to any compensation, and the Treasury which, in effect, is a purchaser of the shares also determines the price—subject if need be to arbitration. It is not stated by whom the costs of the arbitration are to be borne. Nevertheless, the method of appointing an arbitrator who is to be a qualified accountant will be both impartial and authoritative. We can only hope that few cases will arise which will necessitate the application of the Order.

The National Health Insurance Bill

A year ago compulsory unemployment insurance was extended to all non-manual employees whose remuneration did not exceed £420 a year, instead of the previous limit of £250. The same income limit is to be applied from January, 1942, to both compulsory health and pensions insurance and workmen's compensation. At the same time rates of sickness and disablement benefit are raised by 3s. weekly for all classes of contributors, with increased contributions from employers, employees, and the Exchequer. The Bill to effect these changes was introduced to the House of Commons as a stop-gap to meet immediate necessities, and was criticised by speakers in the second reading debate on the ground that reforms of a much more comprehensive character were required. The whole subject of social insurance and allied services is now being examined by an Inter-Departmental Committee, under the chairmanship of Sir William Beveridge, on which eight Departments are represented. The report of this Committee will be awaited with interest, but Parliament will not be able to take action upon its recommendations until after the end of the war.

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POST-WAR TAXATION CREDITS

The Finance Act, 1941, introduces a principle which has never previously appeared in any legislation affecting taxation. It provides under certain conditions for the "crediting" of part of the income tax liability, 1941-42, and for the "repayment" of part of the excess profits tax payable during periods when the rate is 100 per cent.

In regard to income tax, the credit covers the amount by which the earned income allowance and personal allowance are reduced as compared with the total of such allowances which would have been made before the passing of the Act. The repayment of excess profits tax will be the amount by which the total sum paid by way of excess profits tax and national defence contribution would have been decreased if the rate of excess profits tax had been 80 per cent. in respect of the 100 per cent. periods. The differences in the administration of these two conditional refunds are worthy of note. The income tax rebate is to be ascertained and recorded and "credited" to the taxpayer on such date as may be fixed by the Treasury being a date so soon as may be after the termination of hostilities in the present war. In the case of the excess profits tax, the amount of the refund is to be ascertained and recorded, and, if such conditions as Parliament may hereinafter determine are satisfied, be "repaid" at such date as Parliament may hereinafter determine. The income tax item is to be credited to the taxpayer whilst the excess profits tax is to be repaid. The distinction might mean that the income tax rebate may only be credited against future taxation liabilities, but it is difficult to place that construction on the section, as the liability or non-liability of a taxpayer at some future date will be an accidental circumstance; it is more reasonable to presume that the tax will be credited in the case of those who are liable for further taxation, or will be repayable to those who have no liability in the period when adjustment is to be made.

The excess profits rebate is referred to in the Act itself as a repayment subject to conditions to be settled hereafter.

An interesting point will inevitably arise as to the treatment of these post-war credits in the accounts of persons, firms and companies. The income tax item, which will only affect individuals, cannot, in any case, be of any great magnitude, and it will be fairly safe to presume that no special entries or notes will be required on accounts, but that the credit will be treated as a provision which will reduce the taxation liability at some future period. The excess profits tax repayment cannot be dealt with in this way. It is a contingent asset, and in many businesses the difference of twenty per cent. will reach considerable figures. Inasmuch, however, as the repayment may be subject to conditions which are not yet known and may depend upon circumstances which cannot at present be foreseen, it would probably be unwise to treat the twenty per cent. as a specific asset, as this can only be done by crediting the amount, in effect, to the profit and loss account. It seems probable, therefore, that the right course will be for a note to be made on the balance-sheet of the amount which has been recorded for repayment of excess profits tax.

The provision arises out of representations made to the Chancellor of the Exchequer that the continued imposition of a 100 per cent. tax would leave many concerns without any adequate reserve to meet the difficulties which must inevitably arise in the early post-war period in connection with the transition from war production to peace production. The difference of twenty per cent. may be fairly described, therefore, as a compulsory reserve, but of a contingent nature. Heated discussions on the merits and demerits of secret reserves naturally rise in one's mind, but precedent is not really helpful in dealing with unprecedented circumstances. The auditor's duty remains unaltered; he must report whether or not the balance-sheet shows a true and correct view of the state of the company's affairs according to the best of his information and the explanations given to him, and as shown by the books of the company. He may or may not find a record in the books, but he has been informed by an Act of Parliament that repayment is to be made. It might be argued that the conditions to be hereinafter imposed by Parliament may, under extreme circumstances, nullify the repayment in whole or in part; we prefer the line of thought which discounts that possibility and accepts the section as meaning that the excess of twenty per cent. shall be repaid, and that the conditions to be imposed will be mainly concerned with the methods and time of repayment.

Insurance Problems in Wartime

By C. E. GOLDING, LL.D., F.C.I.I.

Insurance is a business which touches every side of human activity. The tremendous dislocation in the ordinary affairs of mankind caused by a major war like the present one must necessarily have a profound effect on the conduct of insurance business and give rise to a number of problems not present in normal times.

Problems of the Insured

The problems of insurance under existing conditions are of two kinds, those affecting insurance institutions in the conduct of their business—questions of rates of premium, handling of investments, taxation problems of many kinds, and the general safeguarding as far as may be possible of their many and widespread foreign interests—and those which affect the insuring public in arranging their insurances so as to secure a full and adequate cover. It is with these latter problems that this article is concerned, to examine what the problems are and how they may best be dealt with, so as to give some assistance to those who are called upon to advise on the subject.

Insurances Relating to Property

Insurances may be broadly divided into three classes, viz.: insurances relating to property, insurances relating to liability and personal insurances. Each of these groups is affected somewhat differently by the special features which arise in wartime, and an analysis of the position may conveniently be made by reference to these three groups.

Insurances relating to property are effected under fire policies, or marine policies, or burglary policies, and the most important point in insurances of this nature is the sum insured, for this represents the limit of the insurer's liability in the event of loss, and if it is not adequate for its purpose, this may impose a serious economic burden on the insured. This possibility of under-insurance is perhaps the chief problem associated with war conditions. Not that it should be a particularly complicated matter, for the rise in commodity values which always occurs at such times is obvious to all and its effect on the cost of making good lost or damaged property may be readily apprehended.

Effect of Under-Insurance

Even so, it is probable that under-insurance, by which is meant the insurance of property for less than its full value, is much more prevalent than would generally be supposed. This is so even in normal times and is much accentuated in a period of rising prices. The first problem to be faced by property owners as a result of the war is the adequacy of their insurance covers and the need to consider revisions of the sums insured. It may be well to examine the effect of failing to do this. So far as simple risks in fire insurance are concerned—private houses, shops, warehouses, and the like—there is no average clause in the policy, and any loss will be paid in full up to the limit of the sum insured. In

such cases the insured might suffer through under-insurance only if he had a total loss or a serious partial loss. Yet it is obviously unwise to rely upon the chance of escaping a serious loss, for experience shows that heavy fire losses do occur with considerable frequency, and to insure for sums substantially below the full value is gravely to impair the value of the cover.

Moreover, it must be borne in mind that certain types of insurance on buildings and contents of private residences, known as Houseowner's or Householder's Comprehensive policies, are issued subject to a warranty by the insured that the property has been covered for its full value. If the property increases in value without any corresponding advance in the sum insured the policyholder might be gravely prejudiced in the event of a loss. The precise legal position of the insured is dependant upon the circumstances, but a proper protection against loss can be secured only by maintaining the sum insured at the full value of the property. In cases where these considerations apply to private furniture and other personal effects, the effect of the purchase tax must not be overlooked. This will obviously increase the cost of replacing any lost property, but unless the declared value insured is sufficient to allow for this, the insured cannot look to obtain a complete indemnity.

Application of Average

So far as commercial and industrial risks are concerned, fire policies are more often issued with an average clause, though not universally. Such a clause requires the insured to bear a rateable proportion of every loss in case of under-insurance, and it applies particularly to mercantile risks and to policies covering more than one risk without a division of the sum insured. Under such policies, if the insurances are not revised in accordance with present-day values, then the insured will be able to recover only a part of any loss, no matter how small. In mercantile and industrial concerns where periodical stocktakings are the rule it should be easy to avoid any trouble in this respect as the point is brought up at the issue of each annual account, but the need to deal with it is more urgent in wartime than in normal times of peace.

Removals of Property

Another potent factor in modern warfare is reflected in considerable movements of the population, due to evacuation schemes, changes in the incidence of labour and the like. This may lead to a wide dispersal of insured property away from the situation in which it was originally insured. All such changes should be duly notified to the insurers, for otherwise the terms of the contract are broken. It is not likely that insurers would plead this technical point as a defence against a claim, if the change had been from one house to another of similar kind so that there had been no increase in risk. But they would be the judges of this and would be entitled to repudiate liability if in their opinion they had been

prejudiced as, for instance, if property insured in a brick and tiled private house had been removed to a timber and thatched farmhouse, or to some premises where a business was being carried on.

Unoccupied Premises

Whilst on this subject, it is pertinent to remember that in times like these, people do not always take their belongings with them on what are expected to be temporary removals. The furniture may be left in an unoccupied house or placed in a furniture store. Private insurances are not automatically transferred to apply to a furniture store, where the hazard is much greater. The insurers must be advised of the change and a higher rate of premium will be required.

Where premises are left unoccupied, a number of points arise. Under any policies covering the risks of burglary and theft, whether as a specific policy or as part of a householder's comprehensive policy, the insurance of these risks is entirely suspended if the house is left unoccupied for more than 90 days in all, whether consecutive or otherwise, during any year. If through evacuation or for other wartime reasons a house is to be left without an inhabitant for an indefinite period, it may be possible to arrange for the insurance to be kept in force after the 90-day period has expired, but only in regard to furniture and effects, excluding plate, jewellery and furs, and subject to payment of a small additional premium. The comprehensive policy covers any property which the insured may take with him to another private house, and this applies without notification. Nevertheless it is desirable to inform the insurers of the circumstances of any such removal or of any change in the arrangements which existed when the policy was taken out, for it is not easy to fit all the many different sets of facts into a hard and fast rule.

Overflowing of Water Tanks or Burst Pipes

A special risk insured under comprehensive policies, either on buildings or on their contents, is damage caused by bursting or overflowing of water tanks, apparatus or pipes. The intention in covering such risks is that the house should be occupied with the water apparatus properly looked after and any trouble detected at an early stage, before the damage goes too far. Under some policies, especially on buildings, the cover ceases if the premises are left unoccupied; under others some period up to 90 days as a maximum may be allowed without prejudice to the insurance. Some concession has been made to meet the difficulties imposed on householders who have to leave their residences unoccupied in wartime. The cover will in such cases be continued during unoccupancy, provided that the water mains have been turned off and all cisterns or other apparatus containing water have been as fully drained as is possible or permissible.

New Processes of Manufacture in Wartime

The industrial expansion which takes place in wartime leads often to developments in manufacturing concerns which may necessitate the use of new kinds of plant, machinery or stock and new processes of manufacture. These may result in transforming the

risk from a fire or burglary insurance point of view into something quite different, and usually much more hazardous, than it was before. A condition in the policy throws the responsibility on the insured to notify any such material change in the risk, and unless and until that change has been duly accepted by the insurers the policy will not be valid. This is a point of much importance affecting particularly industrial firms.

Liability Insurances

The same point has a bearing on the second group of insurances, those relating to liability. A far-reaching liability is imposed on all employers by virtue of the Workmen's Compensation Acts, and this is usually covered by insurance. But certain processes are much more hazardous than others, and this applies specially where mechanically driven machinery is used. Many policies exclude the use of woodworking machinery and care must be taken to see that if any such machinery is installed that fact is brought to the notice of the insurers.

New Workmen's Compensation Act

During the present war a new Act has been passed—the Workmen's Compensation (Supplementary Allowances) Act, 1940, which came into force in August, 1940. This increases the liability of the employer, in cases of non-fatal accidents to employees, by 5s. a week, and this extra liability can readily be covered by payment of the appropriate additional premium.

Effects on Motor Insurance

An important branch of liability insurance is motor insurance. The chief effect of the war on this business is to reduce the number of vehicles on the road. A great many cars have been laid up, so that full cover, whether against third-party risks or against damage to the car, is no longer required. In that case a current policy can be suspended except in regard to fire and theft while the car is contained in a locked garage. A credit for the unexpired portion of the current insurance premium will be held by the insurers for the benefit of the insured to be set off against the premium required when the full insurance is once again necessary. A suitable charge will be made for the fire and theft risks in the meantime, usually at a rate of 7s. 6d. per cent. on the value of the car.

Personal Insurances

Lastly, there remains to consider personal insurances, which include life assurances and personal accident insurances. Here the problems of wartime are simpler. The majority of life policies issued before the war covered death by war risk, but since the outbreak of war the life companies have necessarily had to consider their position in regard to new business. While the practice is not entirely uniform, it is possible to cover civilian war risks on agreed terms. Life assurance is frequently effected for the purpose of paying death duties and it is desirable to consider whether the provision made is sufficient under war conditions, having regard to the value of the estate involved and the current rates of death duties.

General Principles of Budgetary Control—II

By H. SENIOR, M.Sc. (Econ.), Chartered Accountant

Nature and Aims of Budgetary Control

The step from cost control (embodied in standard costs) to budgetary control involves the use of past records to forecast future possibilities and it is declared by Fordham & Tingley to be the highest form of accounting. Hilgert says: "Budgetary Control may be defined as accounting in terms of the future. It means a careful planning of all functions of business in advance. These plans, which are contained in an instrument called for convenience 'the budget,' consist of a series of estimates of the cost of operating every department, made for a definite period in advance, and against these estimates the actual performance is checked."

The definition of budgetary control approved at the International Discussion Conference, Geneva, 1930, was "an exact and rigorous analysis of the past and the probable and desired future experience, with a view to substituting considered intention for opportunism in management." Edwards considers this definition much too ambitious, however, and puts forward the view that it is an attempt merely to force the heads of departments to state coherently the guesses they are making with reference to the future of their business and the data on which those guesses are based, and at the end of the budget period to compare in detail the guesses with the actual results achieved. C. G. Reynolds, one of the earliest exponents in England of this form of control, states very aptly "the budget is a symposium of all our business plans and their expected results expressed in financial terms."

The idea of substituting careful thought for opportunist methods of management had been expressed by Henry Fayol, who pointed out that "in a sudden emergency a serious but passing difficulty may cause a change of policy which would afterwards be regretted; but a plan which has been carefully studied during a calm period . . . enables one to preserve a clear view of the future and concentrate on the danger of the moment all one's intellectual and physical faculties." D. J. Garden, however, sounds a note of warning when he says: "On the other hand, a business plan which fails to turn to account unheralded opportunities, or which cannot be rapidly modified to meet sudden changes in the business situation is unlikely to be attended, in present-day conditions of trade, by a high measure of success. A plan there must be, but under modern conditions of business it must avoid rigidity at all costs."

In any business the administrative heads are continually making decisions which have their base in a forecast of one sort or another. The problems involved and the degree of forecasting may vary considerably, and as an example the engagement of a weekly wage-earner may be contrasted with purchase of a machine with an expected life of fifteen or twenty years. In many firms of standing the structure of the business is reasonably stable and forecasts are chiefly of a short-dated type. On the other hand, the prospectus of a company newly formed to promote an untried invention embodies forecasts of a highly problematic nature, the major forecast involved being the scale of production. Even in an established concern, extensions and developments are being considered at all times, but the relative importance of each decision tends to become smaller as the structure increases. Long-period plans are inevitable when plant renewals are considered and where training and advancement of personnel are important.

The technique of budgeting has, however, been chiefly related to the short-period problems and their combination into a co-ordinated plan of campaign. The first problem, therefore, is to decide upon the budget period.

It will generally be found that where the selling is the dominating factor then the budget period is longer. In the light industries, such as the manufacture of breakfast foods, confectionery or electrical fittings, the sales factor is the more important. The market can be made by sales stimulus and advertising and firms of this nature often budget in detail for one year ahead. In the heavy industries, such as iron and steel, where there is a heavy expenditure on plant and auxiliary equipment, the production factor is predominant. These latter capital goods industries cannot make the demand, they follow it—and the state of their order book and general trade conditions are preferred as a guide rather than a long-dated preconceived plan. They therefore budget for a shorter period of three or six months. In the United States, in some firms where the technique has been highly developed, a long-period budget will be prepared for five years with a detailed short-term budget taken out for one year.

It is pertinent at this stage to indicate who should be responsible for the compilation and correlation of the budget. The responsible official, very often the financial or cost accountant, will control the functions involved with the help of a Budget Committee, meeting at regular intervals. The members of the staff whom one would expect to be present on that committee are:—

- (a) General Manager as Chairman.
- (b) Sales Manager.
- (c) Production or Works Manager.
- (d) Chief Accountant.
- (e) Cost Accountant.

The constitution of the budget committee indicates the principle divisions for which budgets may be prepared in advance. They are:—

- (a) Sales.
- (b) Production.
- (c) Finance.

The sales division will consider its past experiences in relation to the general state of business. It will also bear in mind the incidence of special conditions which may prevail or may be anticipated. The various lines or products will be reviewed in the light of advertising and similar means of sales stimulus. The information may be contained in a fixed sales budget or a series of budgets setting out expected sales at various price levels together with an estimate of the expected selling and distribution expenses at those different volumes of sales. There may be also indications of likelihood of error in the form of notes.

The production programme may then be drawn up after considering the stock position of the various products in the light of sales campaigns, seasonal trends and similar factors. The production budget is the key to the subsidiary budgets of materials and labour. The breaking down of the production budget into terms of material and labour may involve consideration of quantities. Reference to the buyer and to the work study function will translate material quantities and labour hours into money values. In some cases it may be found convenient to treat the budgeted labour load as the production budget. Finally, departmental expense or oncost budgets are compiled and from them

the budget oncost load or burden is determined. As in the case of the sales budget consideration may be given to budgets involving several different levels of production. The material and labour values and the oncost burden now determined by budget are used to compile the standard costs of the various products for the budget period.

The main requirements are seen to be :—

- (a) A plan or forecast of the manufacturing and profit position of the company.
- (b) The translation of that plan into terms of standard costs for the lines fabricated.
- (c) Comparison of the actual results and progress with the forecast.
- (d) Details of deviation from the cost standards.

Budgetary control therefore enables the management (as a result of careful planning and co-ordination among

all departments) to control the activities of a business by means of sales, production and finance budgets and their analysis. In order to establish that control in any particular industry and to link it with intelligent administration it is necessary to undertake detailed analysis of expenditure on the one hand and production methods on the other. The compilation of the data involves an intimate knowledge of the manufacturing processes and experience of accounting and an ability to undertake detailed impartial investigation. The system must fit the business and it is useless to attempt to make the business fit a predetermined system. The actual form of the budget is dependent upon the type and organisation of the business and is also governed by the purpose for which it is prepared. Generally speaking, the foundations are the accounting and costing records.

(To be concluded.)

The Liabilities (Wartime Adjustment) Act, 1941

By MAURICE SHARE, Barrister-at-Law

Trustees in bankruptcy and liquidators are familiar with the "thin partitions" that divide bankruptcy and solvency. These thin partitions become more numerous in wartime, when many forms of business activity are curtailed and hampered. As peace inevitably follows war, it is desirable to avoid the unnecessary destruction of businesses which would result if events were left to take their own course.

With this end in view the Government secured the passing, on June 12, 1941, of the Liabilities (Wartime Adjustment) Act, 1941. This Act secures for persons who are in serious financial difficulties owing to the war the opportunity to carry on their businesses, if any, and satisfy their creditors at the same time without incurring the taint of bankruptcy.

Application of Act

It applies to all persons who are ordinarily resident in England or carry on business in England, or are members of firms carrying on business in England. It also applies to partnership firms and private limited companies carrying on business in England. If a person has ceased to reside in England entirely because of the war or suspended the carrying on of his business in England entirely because of the war, he may nevertheless avail himself of the advantages of the Act.

Schemes of Arrangement

Wherever necessary, the Lord Chancellor appoints "liabilities adjustment officers" and subordinate officers in the county court districts. Any person who is in serious financial difficulties owing to war circumstances may apply to the registrar of a county court in the district in which he resides or carries on business, or has resided or carried on business for the greater part of the preceding six months, for a form of application to the local liabilities adjustment officer, and for the latter's address. The form recites that the applicant is in serious financial difficulties owing to war circumstances, and that he is applying for the services of a liabilities adjustment officer for advice and assistance in enabling him to arrive at an equitable and reasonable scheme of arrangement with his creditors. If the applicant is carrying on a business, or would be doing so but for war circumstances, the scheme of arrangement aimed at must be one which will enable him to preserve his business or to recover it when circumstances permit.

The applicant is then requested to attend an interview with the liabilities adjustment officer. At the interview

he must provide particulars as to his present and future liabilities and any further information as to his affairs, whether in the form of a statement of affairs or otherwise, which may be required. He may also submit his own proposals as to a scheme of arrangement.

A scheme of arrangement will become operative on approval by the liabilities adjustment officer. There is provision for notice to creditors, and, if necessary, a meeting of creditors, and proof of debts. Before a scheme can be approved it must receive the assent of the debtor, of a majority in number and value of the creditors who have proved, and of any party to a lease, mortgage or other contract the terms of which would be varied by the scheme.

The scheme may provide for the composition of debts, the postponement of payment of debts, the assignment or charging of any property of the debtor in favour of the creditors, and the management or disposal of the debtor's business (if any) or any other part of his property, and it may vary the terms of any lease, mortgage or contract to which the debtor is a party.

A non-assenting creditor may appeal to the court against the approval of the scheme on the ground that it is contrary to the Act or that it is inequitable or unreasonable. An assenting creditor or the liabilities adjustment officer may apply to the court for the revocation of the scheme on the ground of non-compliance with it, or of an offence under the Act or lack of good faith by the debtor, or that the scheme would be delayed or would cause injustice.

Application to the Court

If the assent of the requisite majority of creditors cannot be obtained, it will be necessary to have recourse to the court. The proper court is the county court where the debtor resides or carries on business or has done so for the greater part of the six months immediately preceding the date of the application. In the case of a company debtor, the proper court is that which would have jurisdiction to wind up the company. It is important to observe that the court cannot be invoked in this way where a bankruptcy receiving order is in force and has not been stayed under the Courts (Emergency Powers) Act, 1939, or this Act.

The first or preliminary hearing is in private, and may, if the judge directs, be conducted before the registrar, subject to an appeal to the judge if the registrar refuses to make an order. It should be noted that

the following creditors, as well as the debtor, may apply to the court for an order: (a) any creditor who is prevented by reg. 4 or reg. 6 (2) of the Defence (Evacuated Areas) Regulations, 1940, from enforcing a provable debt; (b) where the debtor has been given and still enjoys relief under section 1 of the Courts (Emergency Powers) Act, 1939, any creditor who has a provable debt.

The Protection Order

On a *prima facie* case being shown of inability to pay debts or lack of reasonable prospect of preserving or recovering the debtor's business or livelihood, the court must make what is called a protection order. The effect of this order is to stay all proceedings against the debtor for debt or for the recovery of land, or of goods let on hire-purchase agreements, and to prevent such proceedings being commenced or remedies being exercised by way of taking possession of land, or of goods let under hire-purchase agreements, without the leave of the court. In addition, the court may give directions as to the management and disposal of the debtor's business and property, appoint a receiver or manager, charge the whole or part of the debtor's property in favour of the creditors, direct the vesting of the whole or part of the debtor's property in a trustee and/or require the debtor to pay money into court and deliver up documents or other property capable of manual delivery.

The Adjustment Officer's Report

A most important part of the proceedings from the accountant's point of view is the report of the liabilities adjustment officer, which must be submitted to the court where that officer has already examined the debtor, or where the debtor's affairs have been referred to him for inquiry and report. This report contains a complete account of the debtor's affairs and a schedule of his property, debts, liabilities, creditors and future creditors. It may also contain proposals for the adjustment and settlement of the debtor's affairs. These proposals may be put forward by the debtor at his interview with the officer. The report is available at the court office for the inspection of the debtor and of any creditor who has proved his debt or is a secured creditor or future creditor.

The Liabilities Adjustment Order

At the adjourned hearing, the debtor, every creditor who has proved, and every future creditor, as well as persons whose interests might be prejudicially affected by an order, must be given an opportunity of addressing the court in person or by solicitor or counsel or by any other person (*e.g.*, a relative or an accountant) allowed by the court to do so on his behalf.

The main provisions of a liabilities adjustment order deal with the realisation of the debtor's property and its distribution, but it may also secure the maintenance of the debtor and his family, the exemption of furniture, tools of trade and business property, the payment of interest on borrowed sums, the postponement of realisation, the postponement of debts, disclaimer, reduction of rents, vesting in the debtor goods subject to hire-purchase agreements, either immediately or after payment of further sums, the variation of contracts, the reduction of interest payments on mortgages, and the repayment, or suspension of repayment, of the principal. The order must provide for the prior payment of debts which would have priority in bankruptcy, and even the prior payment of particular debts in cases where the creditors would suffer exceptional hardship through the order postponing realisation or distribution of a substantial part of the debtor's property. Where the debts can be paid in full the order may provide for the payment of interest up to 3 per cent. per annum.

The court may make a single order, or a series of

interim orders, and may revoke an order on the application of any creditor whose debt has been proved or of the liabilities adjustment officer. The grounds for revocation are: (a) non-compliance by the debtor with the terms of the order; (b) an offence by the debtor under the Act; (c) an act by the debtor which would be a fraudulent preference in bankruptcy or would be void against the trustee in bankruptcy; (d) failure by the debtor to act in complete good faith towards his creditors; (e) the complexity of the case, making it impractical to deal with it under the Act. It is also interesting to observe that an application for a liabilities adjustment order cannot be withdrawn without the leave of the court.

Order of Discharge

The debtor becomes entitled to an order of discharge on payment of his debts in accordance with the liabilities adjustment order, but he remains subject to those debts from which a discharge in bankruptcy does not discharge a debtor (Bankruptcy Act, 1914, section 28), as well as the liabilities for rent, interest, etc., in respect of property subject to a lease or mortgage, of which he retains possession by virtue of the liabilities adjustment order, and liabilities under a loan or contract performance of which is provided for in the liabilities adjustment order.

Deceased Persons, Partnerships and Companies

The Act also provides for the continuance of adjustment proceedings in relation to the estate of a deceased debtor and the application of the Act to partnerships and private companies. In connection with companies no application for adjustment and settlement can be made unless (1) the company has passed a special resolution to do so; (2) the company's main object is to carry on a business for profit; and (3) the object of the application is to enable the company to carry on or recover its business. A special resolution of the company is also needed before a scheme of arrangement of the company's affairs can be submitted for the approval of the liabilities adjustment officer.

Stamping and Registration

Documents used for the purposes of the liabilities adjustment proceedings are generally exempt from stamp duties, except in respect of fees chargeable under the Act.

Finally, the registrar of deeds of arrangement must keep a register of approved schemes, protection orders and adjustment orders. The county court registrar must provide the registrar of deeds of arrangement with particulars of approved schemes and must keep an index of the orders, all of which must be gazetted. Full facilities for search of indexes and inspection of orders are given to the public, and an official search may be obtained from the county court registrar by post. In other respects the Deeds of Arrangement Act, 1914, does not apply to schemes under this Act.

Courts (Emergency Powers) Acts, 1939 and 1940

The Act also contains provision for the application of the Courts (Emergency Powers) Acts, 1939 and 1940, to contracts made after the commencement of the war and the application of the Possession of Mortgaged Land (Emergency Provisions) Act, 1939, to mortgages made after the commencement of the war.

Finally, the part of the Act dealing with the adjustment of debtors' affairs by schemes of arrangement and court orders is to be in force from July 1, 1941, until a date to be declared by Order in Council as the end of the "emergency."

The above is only an outline of a great experiment, the ultimate success of which will depend on the joint efforts of liabilities adjustment officers and those advising debtors and creditors.

TAXATION**Excess Profits Tax**

Continuing the consideration of the Finance Bill—now the Finance Act, 1941—which we started last month (when the Act was still a Bill), we shall deal in this article with further important amendments of the law.

Mines, oil wells, etc.—In the Finance (No. 2) Act, 1940, a measure of relief was given to any class of business consisting in the getting of minerals or oil from any mine, oil well or similar natural source of a wasting nature. The Board of Referees are empowered, on an application on Form B, to increase the statutory percentages applicable to s. 27, Finance Act, 1940 (substituted standards) and s. 13, Finance (No. 2) Act, 1939 (standard profits of businesses commenced after July 1, 1936, and variations of capital in standard period cases). The increase is limited to 4 per cent., and is to be only so far as the Board think necessary to allow for the consideration that, by reason of the wasting nature of the natural source in question, the benefit of capital expenditure incurred by the persons carrying on the businesses may be exhausted at a greater rate than in the case of other classes of businesses.

If an order has been made with respect to businesses of any class, the increase will apply also to so much of any business as falls within the class, if part is outside it.

As an order under this section will apply to the whole class of businesses, it is desirable that the application be made by a representative organisation.

The above provision did not, however, go nearly far enough in relieving concerns with assets whose wasting is accelerated by the war effort. The Act of 1941 goes a step further along the road of relief.

In the case of any business which includes the mining of any metal or the getting of oil from wells, if the Treasury is of the opinion that the mining, etc., is of exceptional importance for the purposes of the prosecution of the war, they may certify that an increase in output over the normal rate is essential in the national interest.

If, then, the profits of a chargeable accounting period include profits attributable to additional output due to the war, the standard profits for that chargeable accounting period are to be increased according to a prescribed scale, depending on the date by which the source of the metal or oil might, but for the war, have been expected to have been exhausted. The increase in standard profits is limited to the prescribed percentage of an amount representing profit at the normal rate on the additional output.

Period.	Percentage.
The years 1946 to 1950 (inclusive) ...	30
" " 1951 " 1960 " " ...	20
" " 1961 " 1970 " " ...	10
" " 1971 " 1990 " " ...	5

Regulations will be made by the Treasury laying down rules for the determination of the extent of the natural deposits, their expected life, additional output and normal profit. The addition is to be determined by the Commissioners of Inland Revenue, but there is a right of appeal to the Board of Referees.

The section does not apply to minimum standard cases, and the Treasury regulations may make special provision for businesses commenced after July 1, 1936, and substituted standard cases. The new provision operates as from April 1, 1940. In the case of a chargeable accounting period which overlaps that date, two computations will be necessary, one on the old basis for

finding the excess profits to March 31, 1940, and one on the new for finding the excess profits thereafter.

Recovery of E.P.T. from employees, etc., where payments for services are disallowed in computing profits.—Following the note on this section in the July issue, it is interesting to compute the amount recoverable in an unusual case. For the most part, with E.P.T. at 100 per cent., the amount disallowed will increase the tax payable by the same amount, but the following illustration shows an exception to the obvious:—

A director-controlled company had computed liabilities to E.P.T. for the years to March 31, 1940 and 1941, of £900 and £2,500 respectively. The comparable N.D.C. amounts were £928 and £1,020 respectively. For the year to March 31, 1942, the sum of £5,000 was disallowed under s. 32, Finance Act, 1940, leaving a computed profit of £26,000 before charging directors' remuneration, which amounted to £4,000 a year, there being no whole-time service directors. Standard profits were £23,000 after adjusting for increased capital.

E.P.T. COMPUTATION			
	With disallowance		Without
Profits of C.A.P. ...	£26,000		£21,000
Standard profits ...	23,000		23,000
	Excess 3,000	Deficiency	2,000

N.D.C. COMPUTATION			
Profits of C.A.P. ...	£26,000		£21,000
Remuneration 15% ...	3,900		3,150
	22,100		17,850
N.D.C.	£1,105		£892 10 0

WITHOUT DISALLOWANCE					
C.A.P.	E.P.T.	N.D.C.	Pay		
1939-40 ...	900	928	N.D.C.		928
1940-41 ...	2,500	1,020	E.P.T.		2,472
	3,400	1,948			3,400
1941-42 ...	2,000	892	Repay E.P.T.		560
	1,400	2,840			2,840
WITH DISALLOWANCE					
C.A.P.	E.P.T.	N.D.C.	Pay		
1939-40 ...	900	928	N.D.C.		928
1940-41 ...	2,500	1,020	E.P.T.		2,472
	3,400	1,948			3,400
1941-42 ...	3,000	1,105	E.P.T.		3,000
	6,400	3,053			6,400

The additional E.P.T. and N.D.C. payable as a result of the disallowance is therefore £6,400—£2,840=£3,560, and that amount is recoverable from the recipient of the disallowed remuneration.

In the above, it has been assumed that s. 32, Finance Act, 1940, applies also to N.D.C., as it is not restricted in its terms to E.P.T. It is to be noted that the 1941 provisions provide for recovery of the additional E.P.T. and N.D.C.

Concentration of industry.—Where the Board of Trade has approved arrangements for the concentration of

business in the hands of fewer persons, in the national interest, having regard to the exigencies of the war, it will involve some of the parties to the arrangement ceasing to carry on some or all of their activities, and some party or parties undertaking new activities. For E.P.T. and N.D.C. purposes, the arrangement is not to be treated as a discontinuance of the business or the setting up of a new business.

Any sum payable under the arrangement to, or to the successor of, any party, is to be allowed as a deduction in computing the profits of the payer and be treated as a trading receipt of the recipient. The only exceptions are payments of a capital nature and interest on borrowed money or other consideration for the use of borrowed money. If, under the arrangement, any sum (with the exceptions named) becomes payable direct to a partner or a director of a director-controlled company, it will be regarded as paid direct to the firm or company and distributed to the partner as share of profits or to the director as remuneration.

It is important to note that plant and machinery will rank for wear and tear allowance as if in normal use, even if the arrangement requires it to be unused.

Similar provisions apply for income tax purposes, save that there is no requirement that payments direct to a partner or director shall be regarded as passing through the firm or company. Such a clause is unnecessary, as the payment would be allowable on the one hand and assessable on the other in the usual way.

"*Income Tax Principles*."—To meet the continual changes that are made in the law governing income tax, it is now provided that in E.P.T. computations:—

- (1) Regard is to be had to the income tax law in force for the year of assessment in which the chargeable accounting periods ends; but
- (2) This is subject to any provision applying to E.P.T. (with or without modifications) a specified provision relating to income tax computation and directing that it shall apply for E.P.T. purposes for specified chargeable accounting periods;
- (3) In ascertaining the profits arising in the standard period, the same principles are to be applied as fall to be applied in ascertaining the profits arising in the chargeable accounting period, i.e., "like" must be compared with "like."

Avoidance of Tax.—A very important amendment was made in the clause of the Finance Bill dealing with transactions designed to avoid liability to E.P.T. As originally drafted, the clause applied whenever the Commissioners were of the opinion that "the purpose, or one of the purposes" of any transaction was the avoidance or reduction of liability to E.P.T. As amended, it applies where the "main purpose" is such avoidance, etc.

The original wording would have caught many wholly innocent parties, and in practice would have been unworkable to a great extent. The Section as it now stands in the Act will give effect to what was intended, and, what is perhaps more important, should act as a deterrent, with the result that it may not have to be applied at all frequently.

In this connection, readers will agree with the mover of the amendment, Mr. Denman, when he said: "I think I am here to present the common view of all parties that we are determined to put an end to this tiresome business of tax dodging. It is a weariness to us year after year to have to try to find fresh words to meet some fresh ingenuity of this tax-dodging fraternity. As a people, we are exceedingly good taxpayers, and it is really monstrous that the Revenue and the good taxpayer should suffer from a minority of blacklegs, because that is what this tax dodging amounts to. . . . I hope this will be the last time we shall be required to change these words." These words of the Chancellor of the Exchequer are also noteworthy: "While [the Commissioners of Inland Revenue] are not likely to attempt to apply the avoidance powers of [Section 35] to innocent trading transactions, they are equally not likely to pass unchallenged any case in which the avoidance of taxation and not genuine business is the governing motive. . . . If I find that the acceptance of the amendment would destroy the object of the clause. . . . I may have to come back to the House and ask it to reverse its decision."

By a further amendment, appeals are to be made, not to the Board of Referees, but to the Special Commissioners, as being more expert in their knowledge of all matters which will come within the Section. The appeal can decide whether or not the main purpose of the transaction was avoidance of tax or that no direction ought to have been given or that the adjustments directed to be made are inappropriate.

Taxation Notes

The Finance Act, 1941

The following new clauses were added at the Report stage:—

Life Assurance Allowance.—Recognising the hardship caused by the limitation of premiums to one-sixth of the statutory total income of war years, it is provided that the maximum amount on which allowance can be obtained for 1939-40 and subsequent years is one-sixth of the statutory income of the year of assessment or of 1938-39, whichever is the higher.

Schedule A Tax on land suffering war damage.—The object of this provision is to enable the appropriate adjustment to be made of the burden of income tax charged on the tenant of a let property which has suffered war damage. In such a case, rent may cease to be payable or may be reduced, and, in consequence, under the old law the tenant might be unable to recoup himself by the ordinary procedure of deduction of tax

from rent, and the landlord might be able to escape payment of taxation to which he is liable. The section provides that if any land which is the subject of a short lease suffers war damage, and in consequence the lease comes to an end or the rent thereunder ceases to be payable or is reduced, and the Commissioners of Inland Revenue are satisfied that the lessee is unable to deduct tax which he would otherwise have been entitled to deduct under the Rules of No. VIII of Schedule A, the Commissioners must give him (by repayment if necessary) such relief from tax for the year of assessment or part thereof for which tax is payable as will reduce the tax ultimately borne by him under Schedule A in respect of the land to what it would have been if the damage had not occurred. The tax can then be recovered by the Commissioners from the persons by whom it would have been borne if the damage had not occurred. A person is deemed to have borne tax to the extent that

tax has been paid by him by deduction or otherwise and is not recoupable by him under the Rules of No. VIII from rent payable. This section applies for 1940-41 onwards.

Losses—Rule 13, Cases I and II.—Although Rule 13 is a rule of both Cases I and II, it refers only to *trades*, and has accordingly been limited in its scope. This anomaly is now remedied. For 1941-42 onwards, the Rule is extended to include a profession or vocation.

Weekly wage-earners—Expenses in travelling to and from work.—The hardship imposed on a workman owing to a change in the place where he works or in his residence, owing to circumstances connected with the war, is alleviated. If it can be shown that as a result he is obliged to defray out of his wages additional expense in travelling between his residence and his work, the additional expense in the half-year, up to £5, can be deducted from the wages assessable for that half-year. The restriction to circumstances having relation to the war effort should be noted. The Chancellor of the Exchequer refused to agree to a similar allowance for non-manual workers. He said: "I think there is a special case for [manual weekly wage-earners]. They are more accustomed to living near their work. Clerks and typists are not in that special position." Readers will probably disagree in these days when many workers eligible for the relief are much better off than those excluded.

Driving motor-cars on leave.—The provisions of s. 8, Finance Act, 1940, which authorises the issue to members of the Forces of permits to use cars, etc., when on leave, is extended to officers and men of the Merchant Navy as from July 1, 1941.

Concessions

Readers should be warned against assuming that a concession, granted on a particular set of facts and to meet peculiar circumstances, is necessarily of general application. While many concessions are of a general nature, there are others that are given to meet unusual situations, and they must be regarded as such. This is particularly so in the case of residence, where the Board of Inland Revenue appears to be exercising a discretion in the case of persons who would not in ordinary circumstances be residing here, but are forced to do so as a result of current conditions. Such a person becomes automatically resident under the "six months" rule, but the position as regards "ordinary residence" is reviewed, apparently with a certain leniency, each year. In this connection it is well to bear in mind that a person might not wish to reside in this country, but if he in fact does so habitually, it would be difficult to dispute that he was ordinarily, even though involuntarily, resident here.

Life Assurance Relief

Life becomes more complicated. The Income Tax Acts give relief at half (or in the case of old policies, a higher fraction of) the standard rate on the premiums paid on life policies, subject to certain limitations. But nowadays the term "standard rate" does not mean the standard rate for the year of assessment but a special standard rate evolved for the purposes of life assurance relief, viz., 7s. in the £. Moreover, the total income to which we must refer for limiting the total premiums to one-sixth thereof, is not necessarily that of the year of assessment; it will be that of 1938-39 if that is higher.

Recent Tax Cases

By W. B. COWCHER, O.B.E., B.Litt., Barrister-at-Law.

Income tax—Public aerodrome and flying school—Rents, fees, and miscellaneous income—Assessed Schedules A and B—Whether additional liability under Schedule D.

Sywell Aerodrome, Ltd., v. Croft (K.B.D., May 9, 1941, T.R.39), is a case of considerable legal importance which will, no doubt, go further. The appellant company owned and to some extent occupied an aerodrome licensed for public use. A lease had been granted to an aviation company of certain buildings with the non-exclusive right to use the aerodrome for a flying school and also the use of a service hangar and the sole rights to sell petrol and execute repairs to aircraft. Rents were also received from two clubhouses and other receipts were from garage rents, housing and landing fees, and a percentage of the receipts from the sales of ice-cream. The appellants were responsible for keeping the landing grounds in order and advertised in their own name the facilities provided. On these facts the General Commissioners had found that the liability was not exhausted by the assessments under Schedules A and B, and that there was additional liability under Case VI of Schedule D. This decision was reversed by Lawrence, J.

He said that the question was whether in addition to their occupation under Schedule B the appellants carried on a concern in the nature of trade which was a separate and distinct operation unconnected with the occupation of land. From *Salisbury House Estate, Ltd. v. Fry* (1930, A.C.432, 15 T.C. 266), and *Lord Glanely v. Wightman* (1933, A.C.618), he said it was clear that where tax was assessed upon a conventional basis the actual amount of income was irrelevant and, in his opinion, the occupier of a tennis court would be liable to the same tax whether

he merely used the court for himself and his friends or let it out to other people to play on. The use of land for an aerodrome stood upon the same footing. The land was essential to the activity carried on and was not unessential like the occupation of land to poets, painters, etc., as mentioned by Romer, L.J., in the *Glanely* case.

The question, however, was whether his views were consistent with other cases. In *The Carlyle and Silloth Golf Club v. Smith* (1913, 6 T.C.198), it had been held by Hamilton, J.—afterwards Lord Sumner—and by the Court of Appeal that a members' golf club which had to admit the public on payment of green fees was carrying on a concern in the nature of trade and was liable under Schedule D. But there was no reference to Schedule B in that case, which was approved by the House of Lords in *Rotunda Hospital v. Coman* (1921, 1 A.C.1, 7 T.C. 517). Similar decisions had been arrived at in *Carnoustie Golf Club v. C.I.R.* (1929, 14 T.C. 498), and in *Stonehaven Recreation Ground Trustees v. C.I.R.* (1930, 15 T.C. 419), and *Smith v. York Race Committee* (1934, 18 T.C. 541); but in the first of these cases there was no mention of Schedule B, whilst in the third no objection was made to the assessments under Schedule D and the *Salisbury House* and *Glanely* cases were not cited. He held, in effect, that all the other cases mentioned were incompatible with the principles established in the last two and that profits from golfing, recreation, and racing, could not be regarded as separate and unconnected with the occupation of land like a cheese factory dealing with the milk of a dairy farm or a butcher's shop dealing with the beasts of a cattle farm.

He held that in the present case the only activities which might be said to be distinct from the occupation

of land were the repairs of aeroplanes and the selling of petrol and ices. These, however, were merely ancillary; and he found, not without doubt, that on the principles laid down in the *Salisbury House* and *Glanely* cases the appeal ought to be allowed.

It has long been recognised that there is an apparent inconsistency in the legal position. It remains to be seen what will be the final result.

Income Tax—Annual payment free of all taxes—Whether free of income tax imposed abroad.

The summons, *In re Frazer* (Ch. May 2, 1941, T.R. 91), raised a question of construction upon the will of John Gordon Frazer, who died in 1916 domiciled in the United Kingdom, and left surviving his wife and son. By the will the residuary estate was left in trust and out of it the trustees were to pay to the widow such a sum as together with the income received by her under a marriage settlement would produce "an annual income for her of two thousand pounds free of all taxes (including income tax) and duties." In 1926 the widow remarried; and since 1932 she and her husband have resided in Kenya which has its own income tax. She, therefore, claimed against the trustees that she was entitled to have the Kenya tax levied on her paid by them. The residuary beneficiaries, upon the other hand, contended that the will only referred to United Kingdom income tax. Farwell, J., upheld this view.

He said that there were two cases bearing upon the point. In *In re Norbury* (1939, Ch. 528), Bennett, J., had said that whilst an English testator might be presumed to know something about the duties imposed by English law upon his estate and beneficiaries under his will it was otherwise with the death duties imposed in foreign countries. He, therefore, held that by a gift of a pecuniary legacy "free of duty" the testator only intended duties payable under the law of this country. In *In re Quirk* (1941, 1 Ch. 46), upon the other hand, where a British subject ordinarily resident in Turkey devised "free of all death duties" land in France, duty was payable in France but not elsewhere; and Morton, J., held that this duty was payable out of the estate. It was clear, however, from his judgment that but for the special facts he would have followed the *Norbury* case. The facts in the case under consideration were also different in many ways from that case, but, adopting the reasoning of Bennett, J., he said that it was difficult to suppose that the testator contemplated the possibility of his widow going to live abroad and he thought that he was only contemplating such taxes and duties as were payable in this country. In the circumstances, the income tax to which the widow had become liable by reason of her residence in Kenya under the law of Kenya was not a deduction which was contemplated by the testator at all, and was not, therefore, included in the term "free of all taxes (including income tax)."

Income Tax—Settlement on children—Rights to cease if child ceased to be British subject, or attempted to alienate, change, or anticipate, or any of the same results happened—Whether income payable for less than life of child—Finance Act, 1922, Section 20 (1) (c).

The facts in *Whigham v. C.I.R.* (K.B.D., May 9, 1941, T.R. 51) are sufficiently stated in the heading. It was argued for the Revenue that by the provisions of the settlement income was payable for some period less than the lives of the children, and that the Scottish decision in *Levitt v. C.I.R.* (1932, 17 T.C. 719) governed the point because although in that case the settlor had reserved to himself a power of appointment in specified circum-

stances, that was not referred to in the judgments of the Court of Session. For the appellant, it was argued that Section 20 implied that the income caught by it should be capable of ultimate enjoyment by the settlor or his wife. Reliance was also placed on *Watson's Trustees v. Wiggins* (1933, 12 A.T.C. 161, 17 T.C. 728), where it was held by the Court of Appeal that a power of revocation with the consent of one of five persons did not make a settlement for less than the life of the child, a distinction being drawn between a settlement until a certain event and one which may be defeated in a certain event. Lawrence, J., allowing the appeal, considered that he ought to follow *Watson's* rather than *Levitt's* case. He expressed no opinion upon the argument that the section only contemplated cases where the disposition provided for reversion to the settlor.

SCHEDULE E AND SUBSCRIPTIONS

The difficulty of proving that subscriptions to professional bodies are money expended "wholly, exclusively and necessarily" in the performance of the duties of an office or employment has been emphasised by the decision of Mr. Justice Macnaghten in the King's Bench Division on July 9. His lordship allowed the Crown's appeal against the allowance of £2, part of the annual subscription paid to the Institution of Civil Engineers by Mr. Donald Charles Graham, a Divisional Engineer to the London County Council. Mr. Graham retired on pension on July 6, 1939, and his claim related to the proportion of the £6 6s. subscription applicable to the period April 6 to July 6, 1939.

It was established in evidence that it was a condition of appointment to the post of Divisional Engineer that candidates must be members of the Institution of Civil Engineers or hold other approved qualifications. There was no recorded instance of relinquishment of his qualification by a Divisional Engineer during his period of service, and such a course would give rise to so many difficulties that it would be impossible to continue to discharge the full duties of the office with the necessary efficiency. A Divisional Engineer had statutory functions which could only be properly and efficiently discharged by a person holding a recognised professional qualification; in particular, it was essential for him to be able to claim a recognised professional status when appearing on behalf of the Council in judicial or arbitral proceedings. Retention of membership of the Institution was dependent on payment of the annual subscription, and Mr. Graham claimed that the £2 should be allowed as a deduction from his assessment. It was contended for the Crown that the £2 was not expended wholly, exclusively and necessarily in the performance of the duties of a Divisional Engineer, and that it was not enough to show that the expense was necessarily incurred in order to secure, retain or obtain preferment in the office. The Commissioners had allowed the deduction, but Mr. Justice Macnaghten said he was reluctantly persuaded that the Crown's appeal must be allowed. He observed that if the London County Council had deducted the £2 from Mr. Graham's salary he would have been taxable on the amount of the salary less £2.

LAW**Legal Notes****COMPANY LAW**

Liquidations—Execution—Garnishee order—Banking Account in Liquidator's Name.

In *Lancaster Motor Company (London), Ltd. v. Bremith, Ltd.* (1941, 2 A.E.R. 11), the Court of Appeal refused to hold that a banking account in the liquidator's name was, for purposes of garnishee proceedings, in the same position as one standing in the company's name. *Bremith, Ltd.*, went into liquidation and having taken unsuccessful proceedings against the appellant company, were ordered to pay the costs. The appellants sought to recover the costs by garnishee proceedings in respect of money in a bank, the account being in the name of H.C.T., the liquidator of *Bremith, Ltd.* Under the Court Rules a garnishee order *nisi* can be made on an affidavit that any other person is indebted to the judgment debtor, and the order would be that all debts owing or accruing from the third person to the debtor should be attached to answer the judgment or order. But in the present case the money was not owing to the judgment debtor at all. The judgment debtor was the company and the account was in the liquidator's name; he alone could sue the bank and only his cheque would be honoured. The bank would not honour a cheque signed on behalf of the company, and the relationship of banker and customer or debtor and creditor did not exist as between the bank and the company. Reference was made to the case of *Gerard v. Worth of Paris, Ltd.* (1936, 2 A.E.R. 905). In that case there was a members' voluntary liquidation. The manageress, on being discharged by the liquidator, obtained judgment against the liquidator for wrongful dismissal and obtained a garnishee order on a bank account in the liquidator's name. But the Court of Appeal in the present case refused to follow the decision in the *Gerard* case and rejected as wrong in principle observations of Slesser, L.J., to the effect that if all other requirements were satisfied and the manageress was entitled to garnishee the account of the company, the mere fact that it stood in the liquidator's name did not affect her rights. Sir Wilfred Greene, M.R., held that the crucial matter was the relationship of the alleged debtor to the judgment debtor; and unless it fell within the description of debtor and creditor, the rule did not apply.

Companies Act, 1929, Section 294—Avoidance of Dissolution—Time-limit for Application.

By the Companies Act, 1929, it is provided that where a company has been dissolved the Court may at any time within two years of the date of dissolution make an order declaring the dissolution to have been void.

In *Re Scad, Ltd.* (1941, 2 All E.R. 466), the Inland Revenue applied for the dissolution of the company to be declared void. It was registered as a private company in 1938, with the object of carrying on the business of an investment trust company, and it was an investment company within Section 20 of the Finance Act, 1936. By special resolution in October, 1938, the company entered into a members' voluntary winding up, a declaration of solvency having been made as required by the Companies Act, Section 230. A.M. was appointed liquidator. In January, 1939, he filed a report pursuant to Section 236 of the Act, and the company was deemed to be dissolved on April 3, 1939. No returns were ever furnished to the Revenue and application was made for a statement by the company.

On January 16, 1939, the company's accountants wrote to the inspector that the income from April 5, 1938, to the date of the winding up was £3,625 net, and they enclosed an account of receipts and payments for the year ended April 5, 1938, showing an income of £8,666 (before deduction of tax). On that sum the liquidator received an assessment on the company for national defence contribution amounting to £433. The company appealed on March 22, 1939, and when appeals in similar cases were decided in favour of the Crown, the appeal was abandoned. To preserve the Crown's rights it was necessary to have the dissolution annulled. Application was made on March 31, 1941, which was just within the two years prescribed by Section 294. But no order could be made within two years, as the hearing was on May 26, 1941. Uthwatt, J., held that, as no litigant can control the date on which the Court makes an order, and reading the Section against the background on which the Court necessarily acts, the period of two years was the period between the date of dissolution and the date when application under Section 294 is made.

EXECUTORSHIP LAW AND TRUSTS

Charitable Trusts—Gifts for Religious Purposes.

The pitfalls in the way of charitably inclined testators have been further illustrated in the recent case of *Re Ward* (1941, 1 All E.R. 315 and 2 All E.R. 125). The testator's intention in this case, as in *Re Diplock*, noted in the March issue of ACCOUNTANCY, was in danger of being defeated by a pure technicality. He gave his residue "to the Archbishop of Westminster or other head of the Roman Catholic Church in England for the time being upon trust that he shall forthwith in his absolute discretion devote the same to the furtherance of educational or charitable or religious purposes for Roman Catholics in the British Empire in such manner in all respects as he may think fit." On a summons to determine whether this was a good charitable bequest, Farwell, J., held that it was not and that there was an intestacy as to the residue. The legal meaning of the word "charitable" is given in the well-known definition of Lord Macnaghten, in a leading case of 1891. "Charity" in the legal sense comprises trusts for any of the following: (a) relief of poverty; (b) advancement of education; (c) advancement of religion; (d) for other purposes beneficial to the community, not under any of the three previous heads.

The difficulty in the present case was that after the words "or charitable" the testator used the disjunctive "or" before "religious purposes, etc." The Judge found that "religious purposes for Roman Catholics in the British Empire" was considerably wider than a trust confined merely to the promotion of religion. Authorities showed that religious purposes were not necessarily charitable. The Court of Appeal recently reversed this decision, and held that the words constituted a good charitable gift. Here is another sharp reminder of the extreme care necessary in drafting wills containing charitable trusts.

Life Assurance—Premiums Paid by Father on Lives of Infant Children—Death of Father—Trust for Children.

In *Re Webb* (1941, W. No. 58) Farwell, J., had to construe the terms of life policies taken out by a father on the lives of his two children. In the wording of each

policy he was described as the "grantee" and the assurance was to be effected on behalf and for the benefit of the person therein named as "the life assured," namely, the child. If premiums were paid, the sum assured was to be paid to the child's personal representatives on proof of death at or over 21. The father had certain powers, during the child's minority, to continue, vary or surrender the policy and to assign or charge it. The father's rights were to cease at the child's majority when the child became solely entitled. If the child died before 21, whoever had paid premiums was entitled to recover part; if the father died during the child's minority and all premiums had been paid to the date of his death, the policy was to remain in force until the child's 21st birthday. The father died before either child attained 21, having paid all premiums due in his lifetime. Did the policies form part of his estate or were they held in trust for the children? Farwell, J., held that the form of policy was intended to create a trust in favour of the infant, and considering all the terms there was sufficient to establish a trust in favour of the infant as against the father. The policies showed he was contracting wholly for the infants' benefit. Accordingly, the policies were held by the

father at his death, and therefore by the trustee of his will, in trust for the respective infants.

MISCELLANEOUS

Claim Based on Professional Man's Negligence—Not to be Referred to Official Referee Unless Necessary—Right of Appeal—Practice and Procedure.

In *Charles Osenton & Co. v. Johnston* (1941, 2 All E.R. 245) the House of Lords held that where a charge of fraud or negligence is made against a professional man, it is desirable that the person charged shall have the right of having the matter tried by a High Court judge, with the opportunity of appeal. The Court has discretion to refer such a case to an official referee, but this discretion should be exercised sparingly, because the Administration of Justice Act, 1932, restricts the right of appeal from an official referee and his finding on a question of fact is final. If the charge cannot be tried without a prolonged examination of accounts or a scientific or local investigation, a reference may be justified. Otherwise, in most cases an order to refer will be so wrong as to induce the Court to interfere. A litigant whose character or professional ability is attacked should not be deprived of his right to have the facts reviewed.

The Emergency Acts and Orders

In our November, 1939, issue we published the first instalment of a comprehensive guide to the wartime enactments and Orders which most concern the accountant. The twenty-first instalment is given below. The summaries are not intended to be exhaustive, but only to give the main content of an Act or Order, the full text of which should be consulted if details are required.

ACTS

Finance Act, 1941.

See pages 189 and 195-7 of this issue.

Goods and Services (Price Control) Act, 1941.

The Board of Trade may by order fix maximum prices to be charged for goods in a business of any class specified in the order. Retailers may be required to make the maximum prices known to their customers. Maximum charges may be fixed for performing services in relation to goods. Registration of dealers may be introduced as a means of controlling prices of secondhand goods. Sales to and by middlemen and brokers may be regulated. Invoices containing specified particulars may be made compulsory in wholesale sales of price-regulated goods, and dealers may be required to keep accounts and records and to produce them for inspection.

(See ACCOUNTANCY, July, p. 172.)

Repair of War Damage Act, 1941.

Amendments are made to the Housing (Emergency Powers) Act, 1939, and the Essential Buildings and Plant (Repair of War Damage) Act, 1939. The main provisions relate to the procedure for carrying out "first aid" and more permanent repairs by local authorities, and to loans which have been made to local authorities and certain public authorities. The explanatory memorandum states that in future payments by the War Damage Commission will take the place of loans by the Minister of Health.

(See ACCOUNTANCY, November, 1939, p. 37.)

ORDERS EXPORTS

Nos. 861, 883. *Export of Goods (Control) Orders, 1941, Nos. 22 and 23.*

Postage stamps of philatelic interest and similar

articles may no longer be exported to British Empire territories without a licence. Further amendments are made in the schedule of controlled goods.

(See ACCOUNTANCY, July, p. 183.)

PUBLIC UTILITY UNDERTAKINGS

Nos. 879, 880, 881. *Public Utility Undertakings. Directions and Orders by the Board of Trade.*

Gas undertakings are forbidden to publish their accounts, except to their auditors, to Government Departments, and to local authorities in the area. They are relieved of statutory obligations to produce accounts and reports at meetings and to include them in returns to the Registrar of Companies. Persons otherwise entitled to receive copies of the accounts may inspect them after seven days' notice.

(See ACCOUNTANCY, July, p. 183.)

RATIONING

No. 939. *Consumer Rationing (No. 2) Order, 1941.*

A number of amendments are made in the scheme for rationing clothes, cloth and knitting wool.

No. 940. *Consumer Rationing. General Licence.*

Certain goods may be sold on surrender of a reduced number of coupons between July 6 and August 16, 1941.

(See ACCOUNTANCY, July, p. 183.)

TRADING WITH THE ENEMY

Nos. 794, 985. *Trading with the Enemy. Patents, Designs and Trade Marks. General Licences.*

Subject to certain conditions, payments may be made (a) of fees and charges necessary for obtaining the grant or registration, or renewal, of patents, designs and trade marks in enemy territory, (b) on behalf of an enemy of fees and charges in respect of patents, designs and trade marks in any country not being enemy or neutral territory, or in Eire.

No. 896. *Trading with the Enemy (Custodian) Amendment (No. 2) Order, 1941.*

The Custodian is not to retain fees from money paid to him in respect of persons resident or trading in the Channel Islands.

Nos. 838, 941. *Trading with the Enemy (Specified Persons) (Amendment) Orders, 1941, Nos. 9 and 10.* Insertions, deletions and amendments are made in the list of persons in neutral countries with whom dealings are forbidden.

(See ACCOUNTANCY, July, p. 183.)

UNDERTAKINGS

No. 1023. *Order in Council adding Regulation 78 to the Defence (General) Regulations, 1939.*

Where a Government Department has taken control of an undertaking, it may, if necessary, remove any person having managerial functions and appoint another person to the position. All shares in the company may be compulsorily transferred to nominees of the authority at a price to be fixed by the Treasury. If any interested person claims that the price is less than the value of the shares, the value is to be determined by the arbitration of a qualified accountant nominated by the Lord Chief Justice of England.

(See ACCOUNTANCY, October, 1940, p. 11, and this issue, p. 188.)

FINANCE

The Month in the City

The Dollar Loan

The announcement of an American loan to the British Government for \$425 million is welcome news for investors in companies with American interests, as well as from the national point of view. Collateral for the loan is provided by \$205 million of quoted securities, \$115 million of unlisted securities, and capital stock of 41 British-owned insurance companies operating in the United States, valued at something over \$180 million, while, in addition, the Reconstruction Finance Corporation is given an assignment of the earnings of the American branches of 41 British insurance companies, whose free assets are placed at \$200 million, mainly in cash and U.S. Government securities. Earnings on these \$700 million of assets in the past five years have averaged about \$36 million, more than sufficient to cover interest at the modest rate of 3 per cent., together with sinking fund payments of \$7,500,000. The loan is for 15 years, but may be extended for five years if two-thirds of the capital sum has been repaid within this period. This procedure has many advantages for us, of which the chief is undoubtedly that it avoids the necessity for any further forced sales on the lines of the Viscose deal, which is generally recognised to have been an extremely poor bargain. The gross amount realised by the issue was no more than \$62.3 million, of which expenses swallowed up close on \$8 million even after the American underwriters had voluntarily renounced half of the commission originally provided for. What is more, if the shares were not resold within six months, the contract provided for a minimum price of only \$36.5 million, or scarcely more than the net liquid assets according to the statement issued by Courtaulds' directors, which valued the concern as a whole at \$128 million. In the light of these figures, it is difficult to believe that the sterling sum eventually paid to Courtaulds by the Treasury will be no more than the equivalent of the dollar proceeds of the issue, a feeling which has been reflected in a moderate recovery in the shares.

Company Earnings Unaffected

Even if Courtaulds' shareholders receive adequate compensation, however, investors generally will welcome the loan arrangement which makes it possible to avoid further outright sales of this kind. Pledging makes possible a double saving; first, of onerous commissions, and secondly, of the inevitable loss associated with large-

WAR DAMAGE

No. 660/S. 21. *War Damage (Notification and Claims) (Scotland) Regulations, 1941.*

Procedure is laid down for notification of war damage to land and buildings in Scotland and for the presentation of claims to the War Damage Commission.

No. 845. *War Damage Contribution Regulations, 1941.*

Inspectors of Taxes are to make assessments of instalments of contribution, and payment is to be made to the Collector of Taxes. Objections and applications for relief must be made to the Inspector within 30 days after demand for payment of the instalment. Provision is made for cases of incapacitated persons, non-residents, deceased persons and receivers.

No. 787. *War Damage to Goods (General) Regulations, 1941.*

Provision is made for payment of free grants in respect of private chattels, and of compensation for war damage to private chattels and business chattels before the insurance schemes came into operation.

(See ACCOUNTANCY, July, p. 184.)

scale liquidation in a buyer's market. Had these American interests been sold outright, moreover, the companies would have received Government securities showing a considerably smaller return than their American assets, with a consequent loss of earnings. As it is, the earnings position is unaffected. Finally, it is satisfactory that the British interest in American industry is being maintained. Without any necessity for actual dollar remittances, the debt should be extinguished within 15 years, the businesses remaining under British management meanwhile. The only criticism made is of the pooling of the dollar earnings. Shareholders here would have preferred the earnings of their particular security to be earmarked for the amortization of a specific portion of the loan. From the American point of view, however, this would have meant the earliest release precisely of the best earning assets, with a gradual deterioration in the quality of the remaining collateral.

Canadian Debt Repatriation

In addition to the U.S. loan, another form of overseas financial assistance announced this month is a loan of \$325 million from Canada, which may be raised to \$400 million. This results from the arrangement under which the Dominion is making Canadian dollars available to this country against sterling instead of against transfers of gold. For the security market, the implication is that Canadian Government loans are likely to be redeemed at an early date. Such loans are outstanding to a total of £37 million, while, in addition, there is Government-guaranteed railway debt for £14 million. Presumably, Canada's remaining sterling will perforce continue to be held in U.K. Government securities, either Treasury bills or longer-dated securities. Agreements have been made with Australia and New Zealand under which the British Government agrees to bear half the cost of financing stocks of surplus foodstuffs. This incidentally strengthens the security behind the sterling indebtedness of these Dominions, since assistance to the local primary producers should not now result in any strain on London funds.

Securities at New High Levels

Though the latter part of the month saw some reaction, July has been a good month for the security markets. At one point the *Financial News* index of ordinary shares rose as high as 75.1, which is above the previous peak of 73.7 touched in January. The present level, incidentally, represents an improvement of some 50

per cent. from the lowest points touched after the collapse of France, when the index at one time dipped as low as 49.4. At the same time, Government securities have been rising to new high levels since 1935. Indeed, the strength of industrials is mainly sympathetic with the rise in gilt-edged, rather than an anticipation of higher equity earnings. Once industry in general has reached its E.P.T. standard, indeed, share prices must

depend entirely upon two factors: gilt-edged yields and the E.P.T. cushion against rising costs. Confidence in the continuance of cheap money has been manifested not only in the rise in prices, but also, for example, by switching out of War Loan on the view that this must now be regarded not as an irredeemable but as repayable in 1952, and therefore with a redemption yield considerably below the flat yield.

Points from Published Accounts

Many companies have adopted the practice of publishing their chairmen's statement simultaneously with the annual accounts, a procedure that has clear advantages in war conditions. For obvious reasons these reviews are apt to be brief and often non-committal, but they do generally serve to supplement and elucidate the information contained in the accounts. The chairman's review circulated by the Distillers Company is, however, specially uninformative, and in contrast with the full statements made in earlier years it emphasises the bareness of the accounts themselves. The trading profit is stated "after writing down buildings, plant and investments, providing for debenture interest, management remuneration, head office expenses, taxation and contingencies, and including interest and dividends from investments." It is, therefore, quite impossible to estimate the significance of a decline from £2,439,853 to £2,121,576 in the year to May 15 last. This is particularly the case since a large proportion of the company's revenue is derived from subsidiaries. Investments in and current and loan accounts with those companies represent £21,327,626 of a balance-sheet total of £39,289,204. The consistent failure to present a consolidated balance-sheet that would elucidate the significance of this item is the more difficult to understand since such a composite statement would presumably disclose a strong position. Some years ago shareholders were told that the book value of these investments was represented by "net solid assets" with £600,000 to spare after eliminating entirely all items of goodwill, patents and trade marks, for which large sums were originally paid, and also after reducing the already very conservative value of properties owned by the various subsidiary companies. It is reasonable to suppose that if anything the group's situation has been strengthened since that time, but there is no reason why shareholders and others should be expected to make such large assumptions.

J. Lyons' Profits

It cannot be claimed, either, that the accounts of J. Lyons & Co. are very illuminating. The balance-sheet gives comparative figures for the previous year—and it may be added that to print these on a coloured ground is a helpful and effective device. But the comparison is not extended to the profit and loss account. For some years the accounts have been drawn up on the decimal system; that is to say, fractions of a pound are stated in decimals, not in shillings and pence. When so many companies ignore fractions altogether, the presentation of figures calculated to the second decimal point gives an impression of great precision. But in the seven years to March 31, 1940, the net profit varied only between £1,008,342 and £1,011,980, while for the year just ended it comes out at the nice, round figure of £833,600.00. It may, of course, be argued that the eight-year record, and in particular the 1940-41 result, gives a clear warning of profit control, and admittedly the surplus (shown after all deductions except tax on dividends) is declared to be struck after making provision for contingencies. But shareholders

have very little to assist them in measuring the year-to-year fluctuations in trading fortune. A point of interest is that the fixed assets are this time brought in "after adjustments necessitated by present conditions."

E. Griffiths Hughes

In contrast with the two companies already discussed, Griffiths Hughes Proprietaries submits a very complete statement. This is cause for particular congratulation because the assets are very largely of an intangible nature—a not uncommon thing with patent medicine manufacturers, for whom goodwill and development expenditure count for so much. The company is a holding concern, drawing its revenue almost entirely from E. Griffiths Hughes, Ltd. The full accounts of that company are annexed, and they show trading profit at £147,744, with investment income at £10,770. From the total of £158,514 are deducted subsidiary company's loss £9,835, reserve in respect of assets in certain European countries £8,050, war damage insurance £1,983 and taxation £85,000, leaving a net surplus of £53,646. From this dividends of £53,429 have been paid free of tax, leaving the carry-forward at £2,547, against £2,330. These dividends are included in the parent company's profit and loss account at their gross equivalent of £101,911, and £48,482 is deducted for income tax applicable thereto. Whether the gross sum or the net sum be regarded as the true return, this is small in relation to the value set, in effect, upon goodwill. The capital of the operating subsidiary is valued in the parent company's balance-sheet at £2,499,993; but the assets of the subsidiary total only £860,206, and deducting creditors and the final dividend appropriation the net worth is only £650,122. In other words, the investment holding mentioned includes £1,849,871 for goodwill, accounting for a large proportion of the parent company's assets total of £2,566,902 and representing over eighteen years' purchase of the gross return of the investment on the 1940-41 basis.

E.P.T. Recoveries

The 1940 accounts of John Summers & Sons are of special interest because they take our practical E.P.T. experience a big stage forward. A number of companies, generally in well-defined spheres such as retail trading, are clearly destined to have a much less favourable experience in 1941 than in previous years. But here is an instance of a company which in 1939 paid E.P.T. but whose earnings have already receded substantially from that year's level. The trading surplus is, in fact, down from £888,360 to £558,388. This decline evidently brings the profit below the E.P.T. standard, for while the year's tax requirements are £265,905, only £158,905 net is provided against them, credit being taken for an estimated recovery of income tax and E.P.T. (amounting to £107,000) provided in the 1939 accounts. Such credits will no doubt figure increasingly in company accounts, now that rationing and supply limitations are pressing so much more weightily, and they promise to act as a powerful buffer between contraction in trading profits and reduction in dividends.

Society of Incorporated Accountants

COUNCIL MEETING

TUESDAY, JULY 22, 1941

Present: Mr. Percy Toothill (President) in the chair, Mr. Richard A. Witty (Vice-President), Mr. R. Wilson Bartlett, Mr. J. Paterson Brodie, Mr. W. Norman Bubb, Mr. E. Cassleton Elliott, Mr. Alexander Hannah, Mr. Walter Holman, Sir Thomas Keens, Mr. Bertram Nelson, Mr. James Paterson, Mr. T. Harold Platts, Mr. F. A. Prior, Mr. R. E. Starkie, Mr. Joseph Stephenson, Mr. Joseph Turner, Mr. R. T. Warwick, Mr. Fred Woolley, and Mr. A. A. Garrett (Secretary).

RESIGNATIONS

The following resignations were accepted as from the dates indicated:—

December 31, 1940:—

HALLIDAY, JAMES (*Associate*), Lytham St. Annes.

December 31, 1941:—

ARNOLD, OSWALD WILLIAM, O.B.E. (*Fellow*), Edinburgh.
CREASEY, GORDON LEONARD, C.B.E. (*Fellow*), Launceston, Tasmania.

ROTHWELL, CHARLES (*Associate*), London.

DEATHS

The Secretary reported with regret the death of each of the following members:—

CLARKE, THOMAS HENRY (*Fellow*), New York.

GUNDRY, IVOR GEORGE (*Associate*), London.

(*Enemy Action*.)

ILLINGWORTH, JOSEPH (*Associate*), London.

LIVERSIDGE, HENRY GILBERT (*Fellow*), Rotherham.

MILLER, ALLAN REGINALD ALEXANDER (*Associate*), Chelmsford.

NIGHTINGALE, WILLIAM HAROLD (*Associate*), London.

PINNER, FREDERICK WALTER (*Associate*), London.

SENDELL, GEORGE ERNEST (*Fellow*), London.

SPENCER, CHARLES FREDERIC (*Associate*), London.

WALLOND, HENRY CHARLES WILLIAM (*Associate*), Birmingham.

WORTHINGTON, HENRY NOEL (*Associate*), Derby.

ACCOUNTANCY AS A RESERVED OCCUPATION

The Council received a report on procedure in regard to applications made for the deferment of calling up of partners and members of staffs of firms of practising accountants.

ACCOUNTANTS FROM THE DOMINIONS IN H.M. FORCES

Some members of the accountancy profession in the British Dominions may be serving with H.M. Forces now stationed in Great Britain. We feel it will be the wish of members of the Society who are able to do so to offer hospitality to them. During their periods of leave, the welcome of a British home would be appreciated by the men concerned. It is suggested that members of the Society who are willing to offer hospitality for a few days at a time to men on leave should communicate with the Secretary of the Society at Incorporated Accountants' Hall. Subsequently it is proposed to send a suitable communication to the principal accountancy bodies in the British Dominions with whom the Society is in friendly communication to request the names of any members and examination candidates who may be in this country with H.M. Forces.

MEMBERSHIP

The following additions to and promotion in the membership of the Society have been completed:—

ASSOCIATE TO FELLOW

Edmunds, Guy Harry Robert (Howard Pim & Hardy), Johannesburg, Practising Accountant.

ASSOCIATES

Browne, Noel, with Mitchell & Plummer, Luton; Chatterjee, Sudhir Kumar, B.A., Calcutta; Chenhalls, Alfred Alexander, with Downes & Stewart, Glasgow; Coward, Joseph, with E. J. White & Co., West Hartlepool; Dennis, Reynold, with Laverick, Walton & Co., Sunderland; Ferrow, James Ronald, with T. W. Spencer & Co., Newcastle upon Tyne; Field, Henry George, with Slipper & Co., London; Fox, Hugh (Kenrick Morgan & Co.), Skegness, Practising Accountant; Freds, Ronald Victor, with Grant & Butcher, London; Garner, John Dawson, with John Gordon, Harrison, Taylor & Co., Leeds; Hamilton, Stuart Boyd, with Gundry, Cole & Co., London; Kramer, Arthur Samuel, with Stanley F. Stephens & Co., London; Lack, Brian Martyn, with H. W. Pratt, Pollard & Co., Wellingborough; Minns, Robert Wilfred (Henstridge & Co.), Birmingham, Practising Accountant; Owen, John Humphrey Nyrr, Borough Treasurer's Department, Chiswick; Queeney, Arthur Edward, with Wells & Richardson, Sheffield; Reggler, Edward Arthur, with Peat, Marwick, Mitchell & Co., London; Sanderson, John Thomas, with Clarke & Clarkson, Lancaster; Whiteley, Thomas Joseph, with E. Warwick Broadbent & Co., Leeds; Williams, Harold Edwin, with C. S. Freake & Co., East London, S. Africa.

DISTRICT SOCIETIES AND BRANCHES

SCOTTISH BRANCH

Meeting of Scottish Council

A meeting of the Council of the Scottish Branch was held in Glasgow on June 27. In the absence of Mr. Robert T. Dunlop (through illness), Mr. D. R. Matheson occupied the chair.

A number of membership matters were reported, including articles of clerkship registered since last meeting.

Mr. Alexander Philip, A.S.A.A., Greenock, was congratulated on receiving the honour of M.B.E.

The Secretary reported correspondence and action taken in connection with deferment of calling-up in the accountancy profession.

BIRMINGHAM

Annual Meeting

The fiftieth annual meeting of the Birmingham District Society was held on July 17. The president, Mr. T. Harold Platts, said that had it not been for the war the parent Society would have held a conference in Birmingham on the occasion of the District Society's jubilee.

Mr. Platts said that many firms had already received payment of claims for stocks damaged by enemy action. He urged that substantial immediate payments on account should be made in respect of damaged buildings and plant.

The accountancy profession was undertaking increased responsibilities with reduced staffs, and had difficulty in coping with the flood of official forms issued by Government Departments.

Annual Report

The committee have pleasure in presenting the fiftieth annual report. The membership includes 351 members and 237 students. Many are serving in H.M. Forces and in the defence services. We honour those who have fallen in the war and others who have lost their lives by enemy action.

Arrangements have been made with H.M. Inspector of Taxes, 1st District, Birmingham, to supply members with copies of accounts and computations where records have been lost by enemy action. Members should first communicate with the Secretary of the District Society.

The committee desire if possible to render aid to those practising members who need help to enable them to cope with the work they have on hand. Practising members who have any spare time which they could offer to other members, and those who are urgently in need of assistance, are asked to communicate with the Secretary of the District Society.

The Consultative Committee has again proved most helpful. A new panel has been set up in connection with purchase tax. Six lectures were held and were well attended.

BRADFORD Annual Report

The committee have pleasure in presenting the following report for the year ended March 31, 1941.

There are 316 members, including 232 Incorporated Accountants, of whom seven are serving with H.M. Forces, and 84 students, of whom 16 are serving with H.M. Forces.

Eleven meetings were held jointly with the Bradford and District Chartered Accountants' Students' Association.

Three students passed the Society's Intermediate Examination (one with Honours), and eight the Final. Congratulations are extended to them.

LONDON

The annual general meeting of the London and District Society will be held during September, and a notice of the precise date will be given in the next issue of ACCOUNTANCY. To economise in postage and the use of paper, the audited accounts for the year ended March 31, 1941, will not be issued to members but a copy will be laid before the annual general meeting, and in the meantime a copy is available at Incorporated Accountants' Hall for the inspection of members of the District Society.

NORTH LANCASHIRE Annual Report

The total membership is 228, consisting of 145 Incorporated Accountants and 83 students. Twenty-three students are serving with H.M. Forces.

Three lectures on Excess Profits Tax were given by Mr. V. H. Bayley, F.C.A., F.S.A.A. They were excellently attended.

Congratulations are extended to three students who passed the Society's Intermediate Examination during the year, and to two who passed the Final.

NORTH STAFFORDSHIRE Annual Meeting

The annual meeting of the North Staffordshire Society was held on June 27. The accounts for the year 1940-41 were approved. All the officers and the retiring members of the committee were re-elected.

SOUTH WALES AND MONMOUTHSHIRE Annual Report

Although educational and social activities had to be restricted owing to the war, two lectures were delivered by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A., one at Cardiff and one at Newport, and the attendances were highly satisfactory.

At the examinations of the Society held during the year, six students of the District Society were successful in the Final, eleven in the Intermediate, and one in the Preliminary.

The activities of the Students' Section have been suspended for the duration of the war, but the committee are following with great interest and pride the progress of the large number of students who are serving in H.M. Forces.

The District Society is anxious to compile a complete record of the activities of all its members who are serving in H.M. Forces, in the various civil defence organisations, and in Government departments on work of national importance.

YORKSHIRE Annual Report

The committee have pleasure in reporting a favourable year, in spite of the increased burdens imposed by the war.

The total membership is 588, including 388 Incorporated Accountants and 200 students. One Fellow, nine Associates and 69 students are serving in H.M. Forces. The total last year was 571. It is regretted to record the loss by death of four members during the year.

Three lectures were held. They were well attended and proved very instructive.

The short revision classes prior to the Society's half-yearly examinations were appreciated by students who attended the courses.

Six students passed the Final Examination and eight the Intermediate. The committee congratulate them.

Many appointments have been arranged by means of the staff appointments register kept at the Secretary's office.

The library facilities have been further increased. A cordial invitation is extended to members of other District Societies serving with H.M. Forces to make use of our library and rooms.

Arrangements were made between members of the Institute and Society practising in Leeds and Bradford to form a special joint committee to deal with emergency conditions. The members of this Society nominated were the President, the Vice-President, the Hon. Secretary, Mr. T. Hayes and Mr. H. Derwick.

PERSONAL NOTES

Messrs. Cassleton Elliott & Co. have pleasure in announcing that they have taken into partnership Mr. David Bonnington Buick, A.C.A. Mr. Buick has been on the staff of the firm for a number of years.

Messrs. Barton, Mayhew & Co., Chartered Accountants, of Alderman's House, Bishopsgate, E.C.2, announce that for reasons of health Mr. H. E. Colesworthy has retired from the partnership and in future will confine himself to private practice, which he will conduct from the firm's emergency office in Weybridge. Mr. Colesworthy will continue to be associated with the firm in a consultative capacity and he will also retain his existing appointments of a personal nature.

Messrs. Trevor Davies & Co., 5, Great Winchester Street, London Wall, London, E.C.2, announce that Mr. Trevor Davies has retired from the firm owing to continued ill-health. The practice will incorporate Shepard & Co., and will be continued under the style of Trevor Davies & Co. by Mr. J. Douglas Shepard, A.C.A., Mr. Harold Evans, A.C.A., and Mr. A. P. G. Walters, A.S.A.A., all of whom have previously been associated with the practice.

Messrs. Matthews, Wiseman & Co. have admitted Mr. L. J. Barham, Incorporated Accountant, into partnership.

Mr. R. P. Howard, Incorporated Accountant, has been appointed Borough Treasurer of Hastings.

Mr. S. Calvert, Incorporated Accountant, has been appointed Borough Treasurer of Wallsend.

REMOVALS

Mr. F. C. Wall, Incorporated Accountant, has removed his office to 12, West Castle Street, Bridgnorth.

Mr. S. A. Martin, Incorporated Accountant, has removed his offices from 43, Dame Street, to 33, Molesworth Street, Dublin.

Messrs. Hughes & Allen, Incorporated Accountants, announce a change of address to 6, Arlington Street, St. James's, London, S.W.1.

Messrs. Norman D. Vine & Co., Chartered Accountants, have removed to 37, Park Square North, Leeds, 1.

OBITUARY

HENRY GILBERT LIVERSIDGE

We record with regret that Mr. H. G. Liversidge, F.S.A.A., senior partner of Messrs. H. G. Liversidge & Co., Incorporated Accountants, Rotherham, died on June 30, at the age of 69.

Mr. Liversidge became a member of the Society of Incorporated Accountants in January, 1902, and seven years later was admitted to Fellowship. After a period in the office of Messrs. W. G. Hawson & Co. he started a practice in Sheffield in 1899, later opening an office in Rotherham, from which his whole practice was conducted after 1914. Mr. Albert Arthur, A.S.A.A., his managing clerk for many years, was taken into partnership three years ago.

Mr. Liversidge was President of the Incorporated Accountants' District Society of Sheffield in the years 1907, 1908 and 1909. He was a member of the Council of the Rotherham Chamber of Commerce, and governing director of Robert Roper, Son & Co., Ltd., Sheffield. His wide interests included Freemasonry and golf.